

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

FILED

SEP 24 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)

MDL No. 875

(SEE ATTACHED SCHEDULE)

C11-270 PJH

CONDITIONAL REMAND ORDER

The transferee court in this litigation has, in the actions on this conditional remand order: (1) severed all claims for punitive or exemplary damages; and (2) advised the Panel that coordinated or consolidated pretrial proceedings with respect to the remaining claims have been completed and that remand to the transferor court(s), as provided in 28 U.S.C. §1407(a), is appropriate.

IT IS THEREFORE ORDERED that all claims in the action(s) on this conditional remand order except the severed damages claims be remanded to its/their respective transferor court(s).

IT IS ALSO ORDERED that, pursuant to Rule 10.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the transmittal of this order to the transferee clerk for filing shall be stayed 7 days from the date of this order. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel. This order does not become effective until it is filed in the office of the Clerk for the United States District Court for the Eastern District of Pennsylvania.

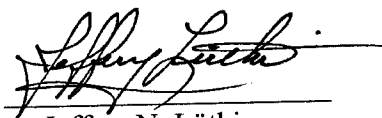
IT IS FURTHER ORDERED that, pursuant to Rule 10.4(a), the parties shall furnish the Clerk for the Eastern District of Pennsylvania with a stipulation or designation of the contents of the record to be remanded and all necessary copies of any pleadings or other matter filed so as to enable said Clerk to comply with the order of remand.

Inasmuch as no objection is
pending at this time, the
stay is lifted.

Sep 19, 2012

CLERK'S OFFICE
UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

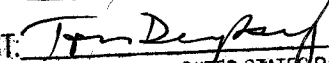
FOR THE PANEL:



Jeffery N. Lüthi
Clerk of the Panel

A TRUE COPY CERTIFIED TO FROM THE RECORD

DATED: 9-19-12

TEST: 
DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

**IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)**

MDL No. 875

SCHEDULE FOR CRO

TRANSFeree			TRANSFEROR			CASE CAPTION
<u>DIST DIV.</u>	<u>C.A.NO.</u>		<u>DIST DIV.</u>	<u>C.A.NO.</u>		
PAE 2	09-92345		CAN 3	09-04676		STANTON v. GENERAL ELECTRIC COMPANY et al
PAE 2	09-92269		CAN 3	09-04756		O'KEEFE et al v. GENERAL ELECTRIC COMPANY
PAE 2	09-92270		CAN 3	09-04782		JANIK et al v. GENERAL ELECTRIC COMPANY et al
PAE 2	09-92271		CAN 3	09-04803		HAMLETT v. GENERAL ELECTRIC COMPANY
PAE 2	09-92274		CAN 3	09-04881		GEESA v. GENERAL ELECTRIC COMPANY et al
PAE 2	10-78938		CAN 4	10-01729		OLSCHEWSKE et al v. ASBESTOS DEFENDANTS
PAE 2	10-78941		CAN 4	10-02927		PETRYK v. GENERAL ELECTRIC COMPANY
PAE 2	11-63468		CAN 4	11-00270		PARKER et al v. GENERAL ELECTRIC COMPANY

* – denotes that the civil action has been severed.

MICHAEL E. KUNZ
CLERK'S OFFICE
CLERK OF COURT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
U.S. COURT HOUSE
601 MARKET STREET
PHILADELPHIA 19106-1797

FILED
SEP 24 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
ROOM 2015
(267) 299-7018
OAKLAND

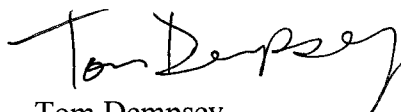
RE: ASBESTOS PRODUCTS LIABILITY LITIGATION (VI) MDL 875
Conditional Remand Order

Dear Sir/Madam:

The enclosed **certified copy** of a Conditional Remand Order is being mailed to you. This order has been issued by the Judicial Panel on Multidistrict Litigation directing each of the cases on the attached list to be remanded back to your court. Pursuant to this order, please file this certified copy in your specific case and re-open the case in your court now that the Panel has returned jurisdiction of this case to you. Any questions please contact me at (267) 299-7018. Thank You and Have a Good Day.

Sincerely,

MICHAEL E. KUNZ
CLERK OF COURT



Tom Dempsey
MDL Docketing Clerk

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875
:
:
PARKER, et al. : Transferred from the Northern
:
:
v. : District of California,
:
:
GENERAL ELECTRIC CO., et al. : Case No. 11-00270
:
:
E.D. PA No. 11-03468

pjt

SUGGESTION OF REMAND

AND NOW, this 6th day of **September, 2012**, it is hereby **ORDERED** that, upon review of the above captioned case under MDL-875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30, 2009), ECF No. 6197, the Court finds that, as to the above-captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative Orders 12 and 12A (see the MDL 875 website's Administrative Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule 16 order issued by the Court (see ECF No. 7).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions, including dispositive motions. Particularly relevant rulings include:

- i. No summary judgment motions were filed.

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) The remaining viable Defendants for trial are:

i. General Electric Company

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).


Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Northern District of California** for resolution of all matters pending within this case except punitive damages.¹

Alternatively, parties in the below-listed cases have **seven (7) days** within which to consent to a trial before an Article III

¹ The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.



EDUARDO C. ROBRENO, J.

SUGGESTION OF REMAND MEMORANDUM

Updated September 5, 2012

To: Transferor Judge

From: Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

Re: Asbestos case that has been transferred to your court

Status of the case that has been transferred from the Eastern District of Pennsylvania

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

History of MDL 875, In re: Asbestos Products Liability Litigation

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 6,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

Resources available for transferor courts on the MDL 875 website

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

Contact information for the MDL 875 Court

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge_Eduardo_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Michele_Ventura@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012) for further assistance.

Intercircuit Assignment Committee

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge J. Frederick Motz of the District of Maryland, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Motz at Judge_J_Frederick_Motz@mdd.uscourts.gov or (410) 962-0782.

ASBESTOS,CA-N,MDL-875

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:11-cv-63468-ER
Internal Use Only**

PARKER et al v. GENERAL ELECTRIC COMPANY
Assigned to: HONORABLE EDUARDO C. ROBRENO
Case in other court: CA-N, 11-00270
Cause: 28:1332 Diversity-Asbestos Litigation

Date Filed: 02/24/2011
Jury Demand: Defendant
Nature of Suit: 368 P.I. : Asbestos
Jurisdiction: Diversity

Plaintiff

CELESTINE PARKER
*AS WRONGFUL DEATH HEIR, AND
AS SUCCESSOR-IN-INTEREST TO
EARL PARKER, DECEASED*

represented by **ALAN R. BRAYTON**
BRAYTON, PURCELL LLP
222 RUSH LANDING RD
PO BOX 6169
NOVATO, CA 94945
415-898-1555
Email: abravton@braytonlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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LEAD ATTORNEY
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KIMBERLY L. MEYER
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TERMINATED: 03/12/2012

RENE CASILLI
BRAYTON PURCELL
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Email: rcasilli@braytonlaw.com
ATTORNEY TO BE NOTICED

Plaintiff

STEPHEN PARKER
*AS LEGAL HEIR OF EARL PARKER,
DECEASED*

represented by **ALAN R. BRAYTON**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

DAVID R. DONADIO
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

KIMBERLY J.W.J. CHU
(See above for address)
ATTORNEY TO BE NOTICED

RENE CASILLI
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

KEVIN PARKER
*AS LEGAL HEIR OF EARL PARKER,
DECEASED*

represented by **ALAN R. BRAYTON**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

DAVID R. DONADIO
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

KIMBERLY J.W.J. CHU
(See above for address)
ATTORNEY TO BE NOTICED

RENE CASILLI
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

RODNEY PARKER
*AS LEGAL HEIR OF EARL PARKER,
DECEASED*

represented by **ALAN R. BRAYTON**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

DAVID R. DONADIO

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

KIMBERLY J.W.J. CHU

(See above for address)

ATTORNEY TO BE NOTICED

RENE CASILLI

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

STANLEY PARKER

*AS LEGAL HEIR OF EARL PARKER,
DECEASED*

represented by **ALAN R. BRAYTON**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

DAVID R. DONADIO

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

KIMBERLY J.W.J. CHU

(See above for address)

ATTORNEY TO BE NOTICED

RENE CASILLI

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

MONYA P. GRANT

*AS LEGAL HEIR OF EARL PARKER,
DECEASED*

represented by **ALAN R. BRAYTON**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

DAVID R. DONADIO

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

KIMBERLY J.W.J. CHU

(See above for address)

ATTORNEY TO BE NOTICED

V.

Defendant

GENERAL ELECTRIC COMPANY

represented by **ALLISON M. LOW**

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SAN FRANCISCO, CA 94104-2834

415-627-1466

Email: allison.low@sedgwicklaw.com

ATTORNEY TO BE NOTICED

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MCCALL LLP

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SAN FRANCISCO, CA 94111

415-781-7900

Email: djohnson@wfbm.com

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/24/2011	<u>1</u>	TRANSFER ORDER NO. 913 THAT THE CLERK OF COURT IS ORDERED TO INITIATE THE PROCEDURES FOR THE TRANSFER OF MDL 875 CASES FROM THE U.S.D.C. NORTHERN DISTRICT OF CALIFORNIA, IN ACCORDANCE WITH THE TERMS OF THIS COURT'S ADMINISTRATIVE ORDER NO. 11. ENTERED AND COPIES MAILED. (nl,) (Entered: 02/28/2011)
02/24/2011	<u>2</u>	AMENDED ADMINISTRATIVE ORDER NO. 11 THAT THE MODIFICATIONS TO THE EXISTING PROCEDURES FOR THE PROCESSING OF CASES, DOCKETS, PLEADINGS AND ORDERS IN MDL 875 CASES ARE ADOPTED AS OUTLINED IN THIS ORDER, ETC. ENTERED AND COPIES MAILED. (nl,) (Entered: 02/28/2011)
02/24/2011	<u>3</u>	NOTICE TO COUNSEL (nl,) (Entered: 02/28/2011)
03/07/2011	<u>4</u>	ANSWER to Complaint <i>and Demand for Jury Trial</i> by GENERAL ELECTRIC COMPANY.(LOW, ALLISON) (Entered: 03/07/2011)
03/16/2011	<u>5</u>	Statement of Case Status as to Plaintiff Celestine Parker (Administrative Order No. 12) by CELESTINE PARKER, KEVIN PARKER, RODNEY PARKER, STANLEY PARKER, STEPHEN PARKER. (Attachments: # <u>1</u> Exhibit 1)(CASILLI, RENE) (Entered: 03/16/2011)
05/02/2011	<u>6</u>	NOTICE of Appearance by DEREK S. JOHNSON on behalf of GENERAL ELECTRIC COMPANY with Certificate of Service (JOHNSON, DEREK) (Entered: 05/02/2011)
08/08/2011	<u>7</u>	ORDER THAT IN THE CASES LISTED IN EXHIBIT "A", ATTACHED, A STATUS AND SCHEDULING CONFERENCE WILL BE HELD ON 9/6/11 AT 2PM.. SIGNED BY HONORABLE EDUARDO

		C. ROBRENO ON 8/8/11. 8/8/11 ENTERED AND COPIES MAILED, E-MAILED (dp,) (Entered: 08/08/2011)
09/02/2011	<u>8</u>	STATUS REPORT <i>for September 6, 2011 Initial Status and Scheduling Conference</i> by CELESTINE PARKER. (MEYER, KIMBERLY) (Entered: 09/02/2011)
09/09/2011	<u>9</u>	ORDER THAT THE DEADLINES IN THE ABOVE-CAPTIONED CASE ARE AS FOLLOWS: ALL DISCOVERY MUST BE COMPLETED BY JANUARY 5, 2012; PLAINTIFF'S EXPERT REPORTS MUST BE SERVED BY FEBRUARY 5, 2012; DEFENDANT'S EXPERT REPORTS MUST BE SERVED BY MARCH 5, 2012; REBUTTAL EXPERT REPORTS MUST BE SERVED BY MARCH 19, 2012; SUMMARY JUDGMENT MOTIONS MUST BE FILED BY APRIL 19, 2012; RESPONSES ARE DUE JUNE 19, 2012; REPLIES, IF ANY, ARE DUE JULY 11, 2012; AND A FINAL PRE-REMAND HEARING, INCLUDING ORAL ARGUMENT ON ALL OPPOSED SUMMARY JUDGMENT MOTIONS, WILL BE HELD ON TUESDAY, JULY 24, 2012 AT 10:00 A.M. IN COURTROOM 11A, JAMES A. BYRNE UNITED STATES COURTHOUSES, 601 MARKET STREET, PHILADELPHIA, PENNSYLVANIA 19106. SIGNED BY HONORABLE EDUARDO C. ROBRENO ON 9/7/2011. 9/9/2011 ENTERED AND COPIES MAILED AND E-MAILED.(jcab) (Entered: 09/09/2011)
02/08/2012	<u>10</u>	ORDER THAT THE SCHEDULING ORDER IN THESE CASES, ENTERED ON 9/7/11, IS AMENDED TO READ THAT PLAINTIFFS' RESPONSES (IF ANY) TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT ARE DUE ON 5/21/12, AND DEFENDANTS' REPLIES TO PLAINTIFFS' RESPONSES (IF ANY) ARE DUE 6/4/12. ALL OTHER DATES IN THE SCHEDULING ORDER SHALL REMAIN THE SAME.. SIGNED BY HONORABLE EDUARDO C. ROBRENO ON 2/6/12. 2/8/12 ENTERED AND COPIES MAILED, E-MAILED (dp,) (Entered: 02/08/2012)
03/12/2012	<u>11</u>	NOTICE of Withdrawal of Appearance by KIMBERLY L. MEYER on behalf of All Plaintiffs (MEYER, KIMBERLY) (Entered: 03/12/2012)
03/12/2012		(Court only) *** Attorney KIMBERLY L. MEYER terminated. (md) (Entered: 03/13/2012)
07/20/2012	<u>12</u>	STATUS REPORT <i>RE FINAL PRE-REMAND CONFERENCE ON JULY 24, 2012</i> by MONYA P. GRANT, CELESTINE PARKER, KEVIN PARKER, RODNEY PARKER, STANLEY PARKER, STEPHEN PARKER. (CHU, KIMBERLY) (Entered: 07/20/2012)
09/07/2012	<u>13</u>	ORDER THAT THE COURT SUGGESTS THAT THE ABOVE-CAPTIONED CASE SHOULD BE REMANDED TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR RESOLUTION OF ALL MATTERS PENDING WITHIN THIS CASE EXCEPT PUNITIVE DAMAGES, ETC. (SIGNED BY HONORABLE EDUARDO C. ROBRENO ON 9/6/12.) 9/7/12

		ENTERED AND COPIES E-MAILED.(gn,) Modified on 9/7/2012 (gn,). (Entered: 09/07/2012)
09/19/2012	<u>14</u>	Copy of Conditional Remand Order from the Judicial Panel on Multidistrict Litigation that all claims in the actions on this order except the severed damages claims be remanded to its respective transferor courts: CA-N 3:09-4676, 09-4756, 09-4782, 09-4803, 09-4881, 4:10-1729, 10-2927, 11-270. (See Paper # 8715 in 01-md-875). (tjd) (Entered: 09/19/2012)
09/19/2012		Certified copy of Conditional Remand Order along with copy of docket mailed to the Northern District of California. (tjd) (Entered: 09/19/2012)